

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SECURITIES AND EXCHANGE)
COMMISSION,)
Plaintiff,)
)
v.) C.A. No. 12-12324-MLW
)
BIOCHEMICS, INC., JOHN J.)
MASIZ, AND GREGORY S.)
KRONING,)
Defendants.)

ORDER

WOLF, D.J.

March 5, 2019

On December 7, 2018, the court-appointed Receiver for BioChemics, Inc. filed Motions to Employ Sunstein Kann Murphy & Timbers LLP as Special Counsel (Docket No. 467) and to Employ Nields, Lemack & Frame, LLC as Special Counsel (Docket No. 468). The Receiver intends to hire both firms to maintain and preserve BioChemics' intellectual property.

Pursuant to an agreement between the Receiver and BioPhysics Pharma Inc. ("BioPhysics"), BioPhysics will pay the legal fees and other expenses, up to \$100,000, related to maintaining and preserving BioChemics' intellectual property. See Docket No. 467-1. The agreement provides that "no portion of the fees incurred . . . shall be paid by Biochemics" Id. ¶3.

On December 10, 2018, the Receiver filed a Motion to Approve Settlement with Landlord (Docket No. 470). The settlement resolves a dispute between BioChemics and its former commercial landlord.

Pursuant to an agreement between the Receiver and BioPhysics, BioPhysics will pay the cost of the settlement. See Docket No. 470-3. The agreement provides that the settlement "is not and will not be paid by BioChemics." Id. ¶2.

On December 11, 2018, the court ordered the Securities and Exchange Commission ("SEC") and movant ADEC Private Equity Investors, LLC ("ADEC") to report whether they have any objections to the Receiver's Motions. See Docket No. 472. The SEC responded that it does not object to the Receiver's Motions. See Docket No. 473.

ADEC responded that "the Motions raise a conflict" because BioPhysics is affiliated with defendant John Masiz. Docket No. 476 at 1. However, ADEC stated that "whether these conflicts will involve property of the Inpellis estate, and if so, whether the conflicts are objectionable for that reason, are properly questions for Inpellis's chapter 7 trustee, to whom ADEC defers." Id. at 2. The Trustee did not file any response.

In view of the foregoing, it is hereby ORDERED that the Receiver's Motions to Employ Sunstein Kann Murphy & Timbers LLP as Special Counsel (Docket No. 467), to Employ Nields, Lemack & Frame, LLC as Special Counsel (Docket No. 468), and to Approve Settlement with Landlord (Docket No. 470) are ALLOWED.

Claire P. Marz
UNITED STATES DISTRICT JUDGE